

LINDA MILLER SAVITT, SBN 094164
PHILIP L. REZNIK, SBN 204590
BALLARD, ROSENBERG, GOLPER & SAVITT LLP
500 North Brand Boulevard
Twentieth Floor
Glendale, CA 91203-9946
Telephone: 818-508-3700
Facsimile: 818-506-4827

(SPACE BELOW FOR FILING STAMP ONLY)

LAWRENCE A. MICHAELS, SBN 107260
SARAH T. WIRTZ, SBN 217434
VERONICA T. VON GRABOW, SBN 259859
MITCHELL SILBERBERG & KNUPP LLP
11377 West Olympic Boulevard
Los Angeles, California 90064-1683
Tel: 310-312-2000 o Fax: 310-312-3100

CAROL A. HUMISTON, SBN 115592
Senior Assistant City Attorney
City of Burbank
275 East Olive Avenue
Burbank, California 91510
Tel: 818-238-5707 o Fax: 818-238-5724
Attorneys for Defendant CITY OF BURBANK,
including the Police Department of the City of Burbank

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT;
CITY OF BURBANK; TIM STEHR;
KERRY SCHILF; JAMIE "J.J." PUGLISI;
DAN YADON; KELLY FRANK; PAT
LYNCH; MIKE PARRINELLO; AARON
KENDRICK; DARIN RYBURN; AND
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602
[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

**DEFENDANT CITY OF BURBANK'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR A PROTECTIVE
ORDER; REQUEST FOR
SANCTIONS; DECLARATION OF
PHILIP L. REZNIK IN SUPPORT OF
SAME**

Date: May 10, 2011
Time: 5:00 p.m.
PLACE: 707 Wilshire Blvd., 46th Fl.
Los Angeles, CA 90017

I. INTRODUCTION

Plaintiffs' counsel did **not** bring this facially-frivolous motion for a protective order to protect his clients from "unwarranted annoyance, embarrassment, oppression, or undue burden and expense," as is obvious from the fact the motion became moot the day after it was filed. Rather, Plaintiff filed the motion as a pretext to block a deposition which: 1) had been noticed **almost six weeks earlier**, 2) was **not** opposed by the deponent or her counsel; and 3) for which Plaintiff had waived all objections pursuant to Code of Civil Procedure § 2025.410(a). Mr. Gresen is **one of six** experienced employment litigators in the Law Offices of Rheuban & Gresen ("R&G") who are, and have been, actively involved in the instant litigation, any of whom were more than qualified to attend the long-noticed April 19, 2011 deposition of Tina Gunn on behalf of the Plaintiffs (Reznik Decl. ¶¶ 2-9, Exhs. 1-3). Plaintiffs have offered no proof, nor have they even alleged, that **any** of the other five R&G attorneys aside from Mr. Gresen was either unavailable or unqualified to cover the deposition. Nor is there any evidence that R&G even **considered** having one of the other attorneys on the case cover the deposition.

Nevertheless, notwithstanding Plaintiffs' failure to timely object to the deposition, in an effort informally resolve this matter without the Court's intervention defense counsel offered to reschedule the Gunn deposition if Plaintiff would agree to stipulate to allowing Defendant to take the deposition of a key defense witness, former Burbank Police Chief Tim Stehr, who, due to the Court's rescheduling of the upcoming trial on the claims of Cindy Guillen-Gomez, would be unable to testify at trial. (Reznik Decl. ¶ 11, Exh. 5.) Mr. Gresen flatly rejected this solution (*see* Gresen Decl. ¶ 10) and opted instead to misuse the discovery process by filing an eleventh-hour, frivolous motion for a protective order for the sole purpose of forcing the rescheduling of a deposition which had been properly noticed over a month before. This is a flagrant abuse of the discovery process, sanctionable under Code of Civil Procedure § 2023.010. Accordingly, the Court should deny Plaintiff's motion and impose sanctions on Plaintiffs and their counsel in an amount sufficient to reimburse Defendant for the cost of opposing this frivolous motion.

1 **II. PERTINENT FACTS**

2 It is *undisputed* that Plaintiffs’ counsel received notice on or about *March 7, 2011* that
3 the deposition of third-party witness Tina Gunn would be taken *more than a month*
4 *thereafter, on April 19, 2011*. (See Gresen Decl. ¶¶ 4, 5, Exh. A.)

5 R&G does not represent the deponent, Tina Gunn. Ms. Gunn retained her own
6 counsel, attorney Gregory W. Smith, to represent her for purposes of her deposition. (Reznik
7 Decl. ¶ 10, Exh. 4.) Mr. Smith accepted the deposition subpoena on behalf of Ms. Gunn and
8 had no objection to scheduling the deposition for April 19. (Reznik Decl. ¶10, Exhs. 4, 6.)

9 Mr. Gresen *admits* that the deposition was scheduled more than a *month* before the
10 April 13 Court appearance where he first raised the issue of *his* unavailability *for trial* on
11 April 19, and he makes no claim that he even mentioned Ms. Gunn or her deposition at that
12 time. (Gresen Decl. ¶¶ 4, 7.) Thus, his claim that the deposition was scheduled “without
13 regard for [his] personal observance” (Gresen Decl. ¶ 7) is patently false.

14 As the Court may judicially notice, Exhibit B to Mr. Gresen’s declaration, the letter
15 from Mr. Gresen’s assistant that he purports to have “had [his] staff send” on Friday, April
16 15, 2011 (Gresen Decl. ¶ 8) is actually dated April 18, 2011 and was faxed to defense
17 counsel on that date— *i.e. the day before the day of the deposition*. (Exh. B.)

18 In that letter, Mr. Gresen’s assistant asked for the deposition to be rescheduled because
19 *two* of the *six* R&G attorneys working on this case – Mr. Rheuban and Mr. Gresen – would
20 not be able to attend. (Exh. B.) She did not claim that there were any errors or irregularities
21 in the deposition notice¹ or that any of the other four R&G attorneys working on the case –
22 Steven M. Cischke, Robert C. Hayden, Joseph M. Levy and India S. Thompson – were either
23 unqualified or unavailable to attend the deposition. In fact, Mr. Cischke, Mr. Hayden and
24 Mr. Levy are experienced employment litigators who have recently been quite active in the
25 case. (Reznik Decl. ¶¶ 3-8.)

26
27 ¹ Even if the letter had specifically objected to alleged errors or irregularities in the
28 deposition notice, it would still have been untimely, pursuant to Code of Civil Procedure §
2025.410(a), which requires such objections to be personally served on the party taking the
deposition at least three calendar days prior to the date for which the deposition is scheduled.

At or about 12:08 p.m. on April 18, 2011 defense counsel, Ms. Savitt, faxed a letter to Mr. Gresen pointing out that Plaintiffs had not filed timely objections to the deposition and that there were at least three other attorneys at R&G who could attend the deposition. Nevertheless, she offered to reschedule Ms. Gunn's deposition if Mr. Gresen would stipulate to allowing the deposition of a defense witness, Tim Stehr, who was going to be out of the country during the upcoming trial on the claims of Cindy Guillen-Gomez. (Reznik Decl. ¶ 11, Exh. 5.) Mr. Gresen maintains that, notwithstanding the fact that he was making an extremely untimely, last-minute request to reschedule a properly-noticed deposition, he was "not obligated to consider" Ms. Savitt's attempt to informally resolve the matter or to make any "concessions" in return. (Gresen Decl. ¶ 10.)

Instead, he chose to misuse the discovery process and prevent the deposition from going forward by filing this patently frivolous, self-contradictory,² self-mooting motion by which Plaintiffs are moving on *May 10, 2011* for an order retroactively preventing a deposition from taking place on *April 19, 2011*, when the deposition *already has to be rescheduled because they blocked it by filing this motion*.

III. PLAINTIFFS HAVE NOT SHOWN GOOD CAUSE FOR ISSUANCE OF A PROTECTIVE ORDER.

Code of Civil Procedure § 2017.020(a) provides that "[t]he court shall limit the scope of discovery if it determines that the burden, expense, or intrusiveness of that discovery *clearly outweighs* the likelihood that the information sought will lead to the discovery of admissible evidence." (Emphasis added.) As the moving parties, Plaintiffs have the burden of making that showing. *Plaintiffs have not met that burden*. They have made no showing that Mr. Gresen's refusal to assign one of the R&G associates assigned to the case to cover

² Plaintiffs claim in their notice of motion (Pl. Moving Papers at 1-2) that on May 10, 2011, Plaintiffs will move for an order "*prohibiting defendants* Burbank Police Department and City of Burbank (collectively, "Defendants") *from taking the deposition* of non-party Tina Gunn, currently noticed for April 19, 2011" (emphasis added), but end up asking at the end of their Memorandum of Points and Authorities for a "protective order requiring that the Deposition of Tina Gunn be *rescheduled* from April 19, 2011, to a mutually convenient date." (Pl. Moving Papers at 5:22-23).

Ms. Gunn’s deposition was in any way justified, or that doing so would have imposed *any* additional burden or expense on Plaintiffs, nor have they shown (or even asserted) that Ms. Gunn’s testimony is not likely to lead to the discovery of admissible evidence.

IV. PLAINTIFF’S FILING OF AN ELEVENTH-HOUR, SELF-MOOTING MOTION FOR PROTECTIVE ORDER IS A SANCTIONABLE ABUSE OF THE DISCOVERY PROCESS.

Obviously, the only legitimate reason to file a motion for a protective order is to *obtain* a protective order *from the Court* by showing that the above requirements for obtaining such an order have been met. Here, Plaintiffs plainly had no intention whatsoever to let the *Court* decide whether Ms. Gunn’s deposition on April 19 should be re-scheduled. This motion was nothing more than a *pretext* for *unilaterally* effecting a last-minute cancellation of a deposition which had at that time been scheduled– with full and proper notice to Plaintiffs – for over a month. This is flagrant and sanctionable misuse of the discovery process pursuant to Code of Civil Procedure § 2023.010. Plaintiffs have compounded this violation by failing to withdraw this frivolous motion after it had effected the very relief Plaintiffs are disingenuously purporting to seek from the Court – *i.e.* the forced rescheduling of the deposition – thereby forcing Defendant to unnecessarily incur the time and expense of opposing the motion.

V. PLAINTIFFS FURTHER VIOLATED THE CODE OF CIVIL PROCEDURE BY FAILING TO GIVE PROPER NOTICE OF ANY OBJECTION TO THE DEPOSITION AND REFUSING TO MAKE A GOOD FAITH EFFORT TO RESOLVE THIS DISPUTE INFORMALLY

Pursuant to Code of Civil Procedure § 2025.410(b), a party properly served with a deposition notice waives any objection to the deposition unless they personally serve objections on the party noticing the deposition within three days before the deposition date. Plaintiffs did not do so here. Section 2025.420(a) and 2016.040 provide that a party moving for a protective order must accompany the motion with a meet and confer declaration stating “facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.” The declaration of Mr. Gresen accompanying the instant motion does not show such a reasonable and good faith attempt by Plaintiffs. In fact, Mr. Gresen

1 *admits* therein that he *rejected* defense counsel's good faith attempt to resolve this issue
2 without the need for a motion. (Gresen Decl. 10, Reznik Decl. 11, Exh. 5.)

3 **VI. CONCLUSION**

4 For the reasons stated above, the Court should deny this motion in its entirety and
5 impose sanctions on Plaintiffs and their counsel in the amount of \$ 1,500 . (See Reznik Decl.
6 paras 13-14).

7

8 DATED: 4/28/11

BALLARD ROSENBERG GOLPER & SAVITT, LLP

9

10

By: 

PHILIP E. REZNIK

Attorneys for Defendant

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DECLARATION OF PHILIP L. REZNIK

I, PHILIP L. REZNIK, hereby declare:

1. I am an attorney at law, duly licenced to practice in all courts of the State of California and an associate at Ballard, Rosenberg, Golper & Savitt, LLP, attorney of records for defendant CITY OF BURBANK, herein. I have personally knowledge of the following facts and, if asked, could and would testify competently thereto.

2. The LAW OFFICES OF RHEUBAN & GRESEN ("R&G") is counsel of record for the Plaintiffs' herein. R&G's letterhead lists six attorneys – Steven V. Rheuban, Solomon E. Gresen, Steven M. Cischke, Robert C. Hayden, Joseph M. Levy and India S. Thompson. (See Exh. B to Plaintiff's moving papers.)

3. Attached hereto as Exhibit 1 is a true and correct printout of a web page containing a bio for Steven M. Cischke, which I accessed from R&G's website on April 27, 2011, which indicates that Mr. Cischke has expertise in employment litigation and has been a member of the California bar since 1986.

4. Mr. Cischke has been actively involved in this litigation in recent months, and has authored many briefs on behalf of the Plaintiffs in this action.

5. Attached hereto as Exhibit 2 is a true and correct printout of a web page containing a bio for Robert C. Hayden, which I accessed from R&G's website on April 27, 2011, which indicates that Mr. Hayden has practiced employment litigation for over 30 years.

6. Mr. Hayden has been actively involved in this litigation in recent months, and has authored briefs on behalf of the Plaintiffs in this action.

7. Attached hereto as Exhibit 3 is a true and correct printout of a web page containing a bio for Joseph M. Levy, which I accessed from R&G's website on April 27, 2011, which indicates that Mr. Levy has expertise in employment litigation and has been a member of the California bar since 2004.

8. Mr. Levy has been actively involved in this litigation in recent months, and has authored many briefs on behalf of the Plaintiffs in this action.

9. India S. Thompson has represented the Plaintiff's herein on multiple occasions,

1 including appearing before the Court on motions.

2 10. R&G does not represent Tina Gunn. Ms. Gunn is represented by attorney
3 Gregory W. Smith for purposes of her deposition. Attached hereto as Exhibit 4 is a copy of
4 letter from Mr. Smith enclosing a Notice and Acknowledgment of Receipt of the Deposition
5 Subpoena for Ms. Gunn's deposition on April 19, 2011, which was signed by Mr. Smith on
6 behalf of Ms. Gunn on March 23, 2011.

7 11. Attached hereto as Exhibit 5 is a copy of an April 18, 2011 letter from defense
8 counsel, Ms. Savitt, to Mr. Gresen in which she offered to reschedule Ms. Gunn's deposition
9 if Mr. Gresen would stipulate to allowing the deposition of a defense witness, Tim Stehr,
10 who was going to be out of the country during the upcoming trial on the claims of Cindy
11 Guillen-Gomez.

12 12. Attached hereto as Exhibit 6 is a copy of a faxed letter received by Ms. Gunn's
13 attorney, Mr. Smith, at 5:08 p.m. on the night before the scheduled deposition of Ms. Gunn,
14 stating that, because he had "been informed by Solomon Gresen that he has suspended the
15 deposition and is bringing a motion for a protective order," Smith had no alternative but to
16 advise Ms. Gunn not to attend the deposition set to commence the following morning.

17 13. I am a 1999 graduate of Loyola Law School and a 2000 admittee to the
18 California Bar. My hourly rate in this matter is \$250, which is well within the range of the
19 amount typically charged in the labor and employment defense firm community.

20 14. I have spent more than 4 hours preparing this opposition. I anticipate spending
21 an additional 2 hours traveling and attending the hearing on this motion. Thus, Defendant
22 respectfully requests that Plaintiff and their counsel be sanctioned in the amount of \$1,500.

23 I declare, under penalty of perjury, under the laws of the State of California, that the
24 above facts are true to my knowledge.

25 Signed this 28th day of April, 2011, in Calabasas, California.

26
27 
28 PHILIP L. REZNIK, Declarant



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ATTORNEYS

Steven M. Cischke

Encino, California

Associate

phone 818-815-2727
 866-377-3193

fax 818-815-2737

email [Email Me](#)

IN THIS SECTION

Termination From Employment

Employment at Will
 Wrongful Termination
 Constructive Termination
 Hostile Work Environment

Discrimination Claims

Sexual Harassment
 Employer Duties Under FEHA
 Race Discrimination
 Family and Medical Leave Discrimination
 Disability Discrimination
 Failure to Accommodate
 Age Discrimination
 Gender Discrimination
 Retaliation
 Religious Discrimination
 Sexual Orientation Discrimination
 National Origin Discrimination
 Equal Pay Act Discrimination
 Pregnancy Discrimination
 Reverse Discrimination

Areas of Practice:

Age Discrimination
 Disability & Illness Discrimination
 Race Discrimination
 Sex Discrimination
 Sexual Harassment
 Affirmative Action -- Employee
 Americans with Disabilities Act -- Employee
 Employee Retirement Income Security Act (ERISA) -- Employee
 Employee Rights -- Employee
 Employment Contracts -- Employee
 Family Medical Leave Act (FMLA) -- Employee
 Federal Employer's Liability Act (FELA) -- Employee
 Municipal Employment -- Employee
 Occupational Safety & Health Act (OSHA) -- Employee
 Pensions, Benefits & Compensations -- Employee
 Sexual Harassment -- Employee
 Wage & Hour Laws -- Employee
 Whistleblower -- Employee
 Worker Adjustment and Retraining Notification (WARN) Act -- Employee
 Wrongful Termination -- Employee
 Wage & Hour Laws
 Class Actions
 Complex Litigation
 Wrongful Death -- Plaintiff

Litigation Percentage:

100% of Practice Devoted to Litigation

Bar Admissions:

California, 1986
 U.S. District Court Central District of California, 1987

Exhibit 1

Wage and Hour Overview

Employee Misclassifications

Misclassification in IT

Overtime, Meal & Rest,
Minimum Wage, Penalties

Improper Deductions, Tip
Splitting, Commissions, Piece
Rate

CFRA/FMLA Leaves

Class Actions

Employee Class Actions

Misclassification Class
Actions

Overtime Class Actions

Improper Deductions
Class Actions

Consumer Class Actions

Consumer Fraud Class
Actions

Defective Product Class
Actions

Other Practice Areas

Interdepartmental Police
Discrimination

Military Returning to Work

Unlawful Business Practices

Whistleblower Cases

Retirement Benefits Claims

ERISA

Retirement Plans

Medical Benefits

ADDRESS

Rheuban & Gresen

15910 Ventura Boulevard

Suite 1610

Encino CA 91436-2843

Telephone: 818-815-2727

Telephone: 866-377-3193

Fax: 818-815-2737

Encino Law Office

Email Us

Education:

University of Michigan Law School at Ann Arbor, Ann Arbor,
Michigan, 1986
J.D.

University of Michigan - Ann Arbor, Institute of Public Policy
School, Ann Arbor, Michigan, 1981
M.P.P.
Major: Public Policy

University of Michigan, Ann Arbor, Michigan, 1978
B.A.
Major: Political Science





Robert C. Hayden

Encino, California

Associate

phone 818-815-2727

866-377-3193

fax 818-815-2737

email Email Me

Over the course of his career, spanning over 30 years, Robert C. Hayden has represented a wide variety of employers, from family businesses and start-ups to Fortune 500 companies. Mr. Hayden counsels his clients on labor and employment law issues, workplace investigations, human resources policies and procedures, including employee handbooks and at-will policies. Mr. Hayden also defends his clients in litigation, including wage and hour class actions, wrongful termination, employment discrimination, and trade secret litigation, as well as in state and federal administrative matters including wage claims before the State Labor Commissioner. Mr. Hayden has advised companies and worked with their Human Resources Departments on employment law issues that arise in mergers, acquisitions and sales of business units.

Areas of Practice:

85% Representing Employers in Litigation

15% Counseling Employers on Employment law Policies and Practices

Discrimination

Employment Law -- Employee

Employment Law -- Employer

Labor law

Litigation & Appeals

Sexual Harassment

Litigation Percentage:

85% of Practice Devoted to Litigation

Bar Admissions:

California, 1978

U.S. District Court Central District of California

U.S. District Court Southern District of California

U.S. District Court Northern District of California

U.S. District Court Eastern District of California

U.S. Court of Appeals 9th Circuit

Exhibit 2

Education:

University of California at Berkeley, Boalt Hall School of Law, Berkeley, California
J.D.

Stanford University, Stanford, California
B.S.
Major: Biology

Professional Associations and Memberships:

American Bar Association

Beverly Hills Bar Association

Past Employment Positions:

PMG Partners, General Counsel, 2006 - 2008

K&R Law Group, Partner/Associate, 1995 - 2006

Lewis, D'Amato, Brisbois & Bisgaard, Partner/Associate, 1989 - 1995

Overtonl, Lyman & Prince, Partner/Associate, 1982 - 1989

Kindel & Anderson, Associate, 1978 - 1982

Pro Bono Activities:

Outside Counsel, L.A. Gay & Lesbian Center, 2001 - 2006



Rheuban & Gresen

15910 Ventura Boulevard
Suite 1610
Encino CA 91436-2843

Telephone: 818-815-2727

Telephone: 866-377-3193

Fax: 818-815-2737

Encino Law Office

Email Us

RG LAW OFFICES OF RHEUBAN & GRESEN

CONTACT
818.815.2727
818.815.2737

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ATTORNEYS

Joseph Michael Levy

Encino, California

Associate

phone 818-815-2727
866-377-3193

fax 818-815-2737

email Email Me

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Termination From Employment

Employment at Will
Wrongful Termination
Constructive Termination
Hostile Work Environment

Discrimination Claims

Sexual Harassment
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FEHA
Race Discrimination
Family and Medical Leave
Discrimination
Disability Discrimination
Failure to Accommodate
Age Discrimination
Gender Discrimination
Retaliation
Religious Discrimination
Sexual Orientation
Discrimination
National Origin
Discrimination
Equal Pay Act
Discrimination
Pregnancy Discrimination
Reverse Discrimination

Areas of Practice:

Contracts
Age Discrimination
Disability & Illness Discrimination
Gay & Lesbian Rights
National Origin Discrimination
Race Discrimination
Religious Discrimination
Sex Discrimination
Sexual Harassment
Americans with Disabilities Act -- Employee
Employment Contracts -- Employee
Employment Discrimination -- Employee
Sexual Harassment -- Employee
Wage & Hour Laws -- Employee
Wrongful Termination -- Employee
Animal Bites -- Plaintiff
Assault & Battery -- Plaintiff
Motor Vehicle Accidents -- Plaintiff
Premises Liability -- Plaintiff
Property Damage -- Plaintiff
Slip and Fall -- Plaintiff
Medical Malpractice

Bar Admissions:

California, 2004
U.S. District Court Central District of California, 2004
U.S. District Court Eastern District of California, 2004
U.S. District Court Northern District of California, 2004
U.S. District Court Southern District of California, 2004

Education:

Southwestern University School of Law, Los Angeles,
California, 2002

Exhibit 3

Wage and Hour Overview

Employee Misclassifications
Misclassification in IT
Overtime, Meal & Rest,
Minimum Wage, Penalties
Improper Deductions, Tip
Splitting, Commissions, Piece
Rate
CFRA/FMLA Leaves

Class Actions

Employee Class Actions
Misclassification Class
Actions
Overtime Class Actions
Improper Deductions
Class Actions
Consumer Class Actions
Consumer Fraud Class
Actions
Defective Product Class
Actions

Other Practice Areas

Interdepartmental Police
Discrimination
Military Returning to Work
Unlawful Business Practices
Whistleblower Cases

Retirement Benefits Claims

ERISA
Retirement Plans
Medical Benefits

ADDRESS

Rheuban & Gresen

15910 Ventura Boulevard
Suite 1610
Encino CA 91436-2843
Telephone: 818-815-2727
Telephone: 866-377-3193
Fax: 818-815-2737
Encino Law Office
Email Us

J.D.

University of California, San Diego, La Jolla, California, 1999

B.A.

Major: Communication

Honors and Awards:

CALI Award, 2001

Professional Associations and Memberships:

Los Angeles County Bar Association

San Fernando Valley Bar Association

Lesbian & Gay Lawyers Association of Los Angeles (LGLA)

Past Employment Positions:

Law Offices of Linda E. Lee, Associate, 2005 - 2008





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LAW OFFICES OF
GREGORY W. SMITH
9100 WILSHIRE BOULEVARD
SUITE 345E
BEVERLY HILLS, CALIFORNIA 90212
TELEPHONE (310) 777-7894 • (213) 385-3400
FACSIMILE (310) 777-7895

March 23, 2011

VIA FIRST CLASS U.S. MAIL

Philip L. Reznick, Esq.
Ballard Rosenberg Golper & Savitt LLP
500 N. Brand Boulevard, 20th Floor
Glendale, California 91203

**Re: Omar Rodriguez, et al. v. City of Burbank, et al.
Los Angeles County Superior Court Case No. BC 414 602**

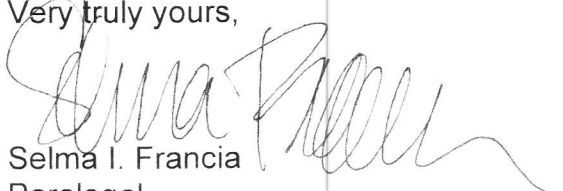
Our Client: Tina Gunn

Dear Mr. Reznick:

Enclosed herewith is the original Notice and Acknowledgment of Receipt—Civil signed by Mr. Smith pertaining to the Deposition Subpoena for Personal Appearance and Production of Documents and Things regarding our client's deposition in the above matter which your office has noticed for April 19, 2011.

Should you have any questions or wish to discuss, please do not hesitate to contact our office.

Very truly yours,


Selma I. Francia
Paralegal

Enclosure

Exhibit 4

NOTICE

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

PHILIP L. REZNIK

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER - MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

1. ☐ A copy of the summons and of the complaint.

2. ☒ Other (specify): Deposition Subpoena for Personal Appearance and Production of Documents and Things

Date this form is signed: 3-23-2011

GREGORY SMITH

TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)



BALLARD
ROSENBERG
GOLPER
& SAVITT, LLP

LABOR AND EMPLOYMENT LAW
ON BEHALF OF MANAGEMENT
AND RELATED LITIGATION

500 NORTH BRAND BOULEVARD
TWENTIETH FLOOR
GLENDALE, CALIFORNIA 91203-9946

TELEPHONE:
818-508-3700

FACSIMILE:
818-506-4827

E-MAIL:
Lsavitt@rgslaw.com

Via Facsimile

April 18, 2011

Solomon E. Gresen, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Blvd., Suite 1610
Encino, CA 91436

Re: Rodriguez v. Burbank Police Department, et al.

Dear Mr. Gresen:

I am in receipt of your letter of April 18, 2011 regarding the deposition of Tina Gunn set for tomorrow April 19th.

The deposition was noticed back on March 4, 2011. As you know, it has taken quite some time to try to get it set up. You have not filed timely objections to the deposition and therefore it is my intent to go forward with it. Similarly, since you do not represent Ms. Gunn, a motion to quash as you suggested this morning in court would not be appropriate. Additionally, you have at least 3 other attorneys in your office who can attend.

I do have one suggestion, however. I would be willing to reschedule her deposition and accommodate you if you would stipulate to allowing us to take Tim Stehr's deposition for trial in the Guillen matter before this Saturday.

Please let me know your decision in that regard. Otherwise, we will go forward with the deposition of Ms. Gunn on April 19th, which is now scheduled to begin at 11:00 a.m.

Very truly yours,

BALLARD, ROSENBERG, GOLPER & SAVITT LLP

Linda Miller Savitt

cc: Carol Humiston, Esq.
Larry Michaels, Esq.
Thomas Mackey, Esq.
Gregory Smith, Esq.

 *** MULTI TX/RX REPORT ***

TX/RX NO 3580
 PGS. 2
 TX/RX INCOMPLETE
 TRANSACTION OK
 (1) 18188152737*
 (2) 13103123100*
 (3) 18182385724*
 (4) 12136890430*
 (5) 13107777895*

ERROR INFORMATION



LABOR AND EMPLOYMENT LAWYERS
 ON BEHALF OF MANAGEMENT
 AND RELATED LITIGATION

500 NORTH BRAND BOULEVARD
 TWENTIETH FLOOR
 GLENDALE, CALIFORNIA
 91203-9946

TELEPHONE:
 818-508-3700

FACSIMILE:
 818-506-4627
 818-985-8167

E-MAIL:
 preznik@brgslaw.com

CONFIDENTIAL

DATE/TIME: Monday, April 18, 2011/12:08 pm

REFERENCE #: 0422-01

FROM: Linda Miller Savitt

FACSIMILE TRANSMITTAL LETTER

Please deliver the accompanying facsimile material to:

NAME:	COMPANY:	FACSIMILE NO.:
Solomon E. Gresen, Esq.	Law Offices of Rheuban & Gresen	(818) 815-2737
Lawrence A. Michaels, Esq.	Mitchell Silberberg & Knupp LLP	(310) 312-3100
Carol A. Humiston, Esq.	City of Burbank	(818) 238-5724
Thomas Mackey, Esq.	Jackson Lewis	(213) 689-0430
Gregory Smith	Law Offices of Gregory Smith	(310) 777-7895

FAX

PAGE 1 of 2

LAW OFFICES OF GREGORY W. SMITH
9100 Wilshire Boulevard, Suite 345E
Beverly Hills, California 90212
Telephone No.: (310) 777-7894 ■ (213) 385-3400
Facsimile No.: (310) 777-7895

TO : Linda Miller Savitt, Esq.
FROM : Gregory W. Smith, Esq.
RE : Omar Rodriguez, et al. v. City of Burbank
Los Angeles Superior Court Case No. BC 414 602
DATE : April 18, 2011

MESSAGE:

ORIGINAL/COPY TO FOLLOW BY MAIL: YES [x] NO []

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Exhibit 6

LAW OFFICES OF
GREGORY W. SMITH
9100 WILSHIRE BOULEVARD
SUITE 345E
BEVERLY HILLS, CALIFORNIA 90212
TELEPHONE (310) 777-7894 • (213) 385-3400
FACSIMILE (310) 777-7895

April 18, 2011

VIA FACSIMILE & FIRST CLASS U.S. MAIL

Linda Miller Savitt, Esq.
Ballard Rosenberg Golper & Savitt LLP
500 N. Brand Boulevard, 20th Floor
Glendale, California 91203

Re: **Omar Rodriguez, et al. v. City of Burbank, et al.**
Los Angeles County Superior Court Case No. BC 414 602

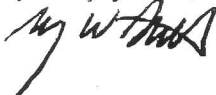
Our Client: Tina Gunn

Dear Ms. Savitt:

This shall serve to confirm that my client, Tina Gunn, will not appear for her deposition tomorrow. I have been informed by Solomon Gresen that he has suspended the deposition and is bringing a motion for a protective order. Consequently, I have no alternative, but to advise my client not to attend tomorrow's deposition.

Please let us know when you wish to reschedule.

Very truly yours,



Gregory W. Smith

cc: Solomon E. Gresen, Esq.
Carol A. Humiston, Esq.
Lawrence A. Michaels, Esq.